

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

DECEMBER 17, 2008

AGENCY MEMBERS PRESENT

Koella, Carl, III, Chair
Handorf, Charles, M.D., Vice Chair
Atchley, Bryan
Caldwell, Gene, M.D.
Gaither, Keith, designee for the TennCare Director
Jones, Clark
Lammert, Gregory
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Morris, John, designee for the Commissioner of Commerce and Insurance

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant III
Brogden, Reid, General Counsel
Christoffersen, Jim, Deputy General Counsel
Craighead, Alecia, Statistical Analyst III
Earhart, Phillip, Health Planner III
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Wells, Phil, Health Planner III

GUESTS PRESENT

Armour, Meri, President/CEO, Methodist LeBonheur Children's Medical Center
Benton, Tony, Vice President, Strategic Planning, Mountain States Health Alliance
Bohmeyer, Beth, RN, Clinical Analyst, Tri-Star
Brent, Michael D., Esq., Boulton, Cummings, Conners & Berry
Capps, Travis
Clapp, Steve, Cumberland River Hospital
Corritore, Danell, Department of Health
Culp, Joe, Department of Health
Day, Edwin W., Consultant
Dhanireddy, Ramasubbareddy, M.D., Medical Director, Division of Neonatology, Methodist LeBonheur Children's Medical Center
Duckett, Gregory, Senior Vice President, Legal Counsel, Baptist Memorial Health Care Corporation
Duncan, Bruce, National HealthCare Corporation
Elrod, Dan H., Esq., Miller & Martin
Ferraro, S., Bass, Berry & Sims
Gaddy, Alexander, Administrator, Center on Aging and Health
Gaggley, Judith, Nurse Consultant, Nelda Davis Consultant Services
Gamucio, Ed
Gitschlang, Andrew, CEO, Knoxville Comprehensive Breast Center
Goforth, Dustin, Executive Assistant, Mountain States Health Alliance
Gooch, Warren, Esq., Kramer Rayson, LLP

Gumucio, Eduardo, President, Hablemos
Harkness, Eric, Planning & Research Coordinator, Division of Health Planning, Finance & Administration
Heatherly, Neil, CEO, StoneCrest Medical Center
Heaton, Lisa, Assistant Vice President, Mountain States Health Alliance
Henkins, Roger, A.Dave Wright, Architect
Hill, Ronald, Vice President, Strategic Development, Vanderbilt University Hospital
Himell, Nancy, Uplands Retirement Village
Holland, Jenise, StoneCrest Medical Center
Hopper, Karen, M.D., CMO, Methodist North Hospital
Hopson, Sara, Planning Intern, Mountain States Health Alliance
Houchin, Barbara, Executive Director, St. Thomas Health Services
Johnson, Larry, M.D.
Katlin, Andrew G., M.D.
Kenley, William, Administrator/CEO, Methodist North Hospital
Kilgore, Dr. James H., Free Will Baptist Family Ministries
King-Davis, Nelda, CEO/President, Nelda Davis Consultant Services
Kozlowski, Kamilia F., M.D., Medical Director, Knoxville Comprehensive Breast Center
Latham, Larry, M.D., Assistant Commissioner, Department of Mental Health
Linn, Laura, Senior Planning Analyst, Mountain States Health Alliance
Maples, Arthur, Director Strategic Analysis, Baptist Memorial Health Care Corporation
Mason, Judy, Director, Diagnostic Imaging, Mountain States Health Alliance
McGregor, Cathy, RN, National Nurses Organizing Committee
Merville, LaDonna, Hospital Alliance of Tennessee
Miller, Caroline, A.Dave Wright, Architect
Ockerman, Jeff, Director, Health Planning, Tennessee Department of Finance & Administration
Ozburn, Thomas H., CEO, Southern Hills Medical Center
Poling, Becki, Director Hospital Services, Tennessee Department of Mental Health/Developmental Disabilities
Queen, Lucas, M.D., Executive Director, Bradley/Cleveland Services, Inc.
Richardson, Scott, Esq., Boulton, Cummings, Conners & Berry
Rich-McLerran, Andrea, CEO, Cumberland River Hospital
Russell, R.F., Tennessee Health Care Association
Stephenson, Kate, Esq., Trauger & Tuke
Strong, Tricia, CFO, Cumberland River Hospital
Talbert, Jill, Tennessee Hospital Alliance
Tally, Sarah Lodge, Esq., Miller, Martin
Taylor, Ken
Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC
Thompson, Ann R., RN, BSN, MBA, Director of Licensure, Department of Health
Trauger, Byron R., Esq., Trauger & Tuke
Trivette, Randy, City Manager, Town of Erwin
Weidenhoffer, Carol, Director of Planning and Business Development
Wellborn, John L., Consultant, Development Support Group
Woods, Frank, Vice President, Financial Development, Free Will Baptist Family Ministries
Wright, Dave, A.Dave Wright, Architect

Chairman Koella, called the meeting to order at 8:30 a.m. in Meeting Room 29, of The Legislative Plaza, Nashville, Tennessee. Mr. Koella announced the resignation of Dr. Caldwell and expressed how fortunate the Agency has been to have him serve over the years and that he will be greatly missed.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements. Ms. Hill thanked Dr. Caldwell for his leadership and his strong support of the Agency and staff.

OTHER BUSINESS

- 1) State Health Plan – Jeff Ockerman, Director, Division of Health Planning, Finance & Administration discussed the status of the state health plan.

CONSENT CALENDAR

Melanie Hill summarized the following Consent Calendar application:

Hospice of Cumberland County d/b/a Cumberland House - (Crossville, Cumberland County) - Project No. CN0810-077

The establishment of a six (6)-bed residential hospice containing approximately 4,067 square feet of space. The project does not contain any major medical equipment and will not initiate nor discontinue any other health services. Project Cost \$739,297.00.

Ken Taylor and Edwin W. Day were present on behalf of the project.

Dr. Handorf moved for approval of the project based on criteria as presented by Ms. Hill: 1) Need – Need was established in the originally approved application. Cumberland County has a growing senior population and the bed need formula supports the additional beds; 2) Economic Feasibility – The project is funded through multiple sources including loans, grants and fund raises. Cash reserves are available to finance the last \$20,000 of the project. It is projected to be profitable by the second year of operation; and 3) The project does contribute to the orderly development of adequate and effective health care as Hospice of Cumberland County is a community based non-profit organization that has been serving the terminally ill for the past twenty (20) years. The project is orderly as it provides a continuum of care for the end of life care. The applicant is Medicare and TennCare certified. Mr. Lammert seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella

NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Cumberland River Hospital - (Celina, Clay County) - Project No. CN0809-063

The initiation of magnetic resonance imaging (MRI) services limited to five (5) days per week. The MRI unit to be acquired will be a Picker 1.0T MRI system in a mobile trailer. No licensed beds will be affected. Project Cost \$497,000.00.

Andrea Rich-McLerran, CEO, representing the applicant, addressed the Agency. Present on behalf of the project were Steve Clapp and Tricia Strong.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need in this rural community of Clay County; 2) Economic Feasibility – The project is economically feasible from cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by allowing the citizens to have access of services that they have to currently travel a long distance to receive. Mr. Jones seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella

NAY: None

Bradley/Cleveland Services, Inc., Site A - (Cleveland, Bradley County) - Project No. CN0809-064

The establishment of a four (4) bed* ICF/MR home for four (4) residents who will transfer or be referred from a State of Tennessee development center. Services will include complete life care support for individuals with mental retardation, appropriate therapies, community integration opportunities and life skills development. The home will be licensed by the Tennessee Department of Mental Health and Developmental Disabilities. Project Cost \$588,875.00. * These beds will be subject to the 40 bed ICF/MR Bed Pool for 2008-2009.

Dr. Lucas Queen, Executive Director, addressed the Agency. Larry Latham, M.D., Assistant Commissioner, Department of Mental Health spoke on behalf of the project.

Dr. Caldwell moved for approval of the project based on: 1) Need – The need is determined by the Department and State Statute; 2) Economic Feasibility – The project's economical feasibility is determined by what the Department pays; and 3) The project does contribute to the orderly development of adequate and effective health care has been

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determined by the Department and passed by State Law. Dr. Handorf and Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella
NAY: None

Bradley/Cleveland Services, Inc., Site B - (Cleveland, Bradley County) - Project No. CN0809-065

The establishment of a four (4) bed* ICF/MR home for four (4) residents who will transfer or be referred from a State of Tennessee development center. Services will include complete life care support for individuals with mental retardation, appropriate therapies, community integration opportunities and life skills development. The home will be licensed by the Tennessee Department of Mental Health and Developmental Disabilities. Project Cost \$588,875.00. * These beds will be subject to the 40 bed ICF/MR Bed Pool for 2008-2009.

Dr. Lucas Queen, Executive Director, addressed the Agency. Larry Latham, M.D., Assistant Commissioner, Department of Mental Health spoke on behalf of the project.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established for the care of these patients in a method of which they shall be cared for has been established by law of statute and court ordered; 2) Economic Feasibility – The project is economically feasible due to commercial loans and cash reserves essentially backed by funding from the State; and 3) The project does contribute to the orderly development of adequate and effective health care for the above reasons. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0].

APPROVED

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella
NAY: None

Governor's Bend - (Erwin, Unicoi County) - Project No. CN0809-066

The construction of a new twenty-eight (28)-bed* skilled nursing home. These beds will be licensed by the Tennessee Department of Health as nursing homes beds and certified for participation in the Medicare program. Project Cost \$1,885,457.00. * These beds will be subject to the 125 Nursing Home Bed Pool for 2008-2009.

Dr. James H. Kilgore, Free Will Baptist Family Ministries addressed the Agency. Judith Gaggley, Nurse Consultant, Nelda Davis Consultant Services and Randy Trivette, City Manager, Town of Erwin spoke in support of the project. Present in support were: Nelda King-Davis, CEO/President, Nelda Davis Consultant Services; Frank Woods, Vice President, Financial Development, Free Will Baptist Family Ministries; Caroline Miller, A.Dave Wright, Architect; Dave Wright, A.Dave Wright, Architect; and Roger Henkins, A.Dave Wright, Architect.

Opposing the project were: Byron R. Trauger, Esq., representing The Center for Aging and Health; and Alexander Gaddy, Administrator, The Center on Aging and Health.

Ms. Gaggley and Dr. Kilgore rebutted.

Mr. Trauger summated for the opposition.

Ms. Gaggley summated for the applicant.

Mr. Atchley moved for denial of the project based on: 1) Need – The need is not shown. According to statistics from the State there is over bedding in the county and there are skilled beds available in the county from the other three (3) facilities; and 2) The project does not contribute to the orderly development of adequate and effective health care. Ms. Weaver seconded the motion. The motion CARRIED [8-0-0]. **DENIED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella
NAY: None

Knoxville Comprehensive Breast Center - (Knoxville, Knox County) - Project No. CN0809-068

The relocation of an in-house magnetic resonance imaging (MRI) unit and MRI services from the current location at 6307 Lonas Drive, Knoxville (Knox County), TN 37909 to a yet un-numbered office suite under construction at 1400 Dowell

Springs Blvd., Knoxville (Knox County), TN 37909 and the acquisition of one (1) additional in-house dedicated breast MRI unit. Project Cost \$2,919,905.00.

Mike D. Brent, Esq., representing the applicant, addressed the Agency. Kamilia F. Kozlowski, M.D., Medical Director, and Andrew Gitschlang, CEO, spoke on behalf of the project. J. Scott Richardson, Esq. was present.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established from the growth in the service; 2) Economic Feasibility – The project is economically feasible based on cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by presenting an organized approach to breast care. Ms. Weaver seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella
NAY: None

Johnson County Community Hospital - (Mountain City, Johnson County) - Project No. CN0809-069

The initiation of magnetic resonance imaging (MRI) services limited to two (2) days per month. The project will not involve any other major medical equipment and will not initiate nor discontinue any other type of health service. Project Cost \$79,000.00.

Sarah Lodge Tally, Esq., representing the applicant, addressed the Agency. Present on behalf of the project were: Dan H. Elrod, Esq.; Laura Linn, Senior Planning Analyst, Mountain States Health Alliance; Lisa Heaton, Assistant Vice President, Mountain States Health Alliance; Judy Mason, Director, Diagnostic Imaging, Mountain States Health Alliance; Sara Hopson, Planning Intern, Mountain States Health Alliance; Dustin Goforth, Executive Assistant, Mountain States Health Alliance; and Tony Benton, Vice President, Strategic Planning, Mountain States Health Alliance.

Mr. Jones moved for approval of the project based on: 1) Need – There certainly is a need based on the need of healthcare in rural America; 2) Economic Feasibility – The project is economically feasible; and 3) The project certainly contributes to the orderly development of adequate and effective health care in Tennessee. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella
NAY: None

Dr. Handorf recused.

Methodist Healthcare-Memphis Hospitals d/b/a Methodist North Hospital - (Memphis, Shelby County) - Project No. CN0809-070

The discontinuance of obstetric (OB) services. The project involves the conversion of twenty-seven (27) OB beds to medical-surgical beds, and minor renovations of approximately 26,660 square feet of space. This project does not contain any major medical equipment or initiate any health service. Project Cost \$101,000.00.

Byron R. Trauger, Esq., representing the applicant, addressed the Agency. Karen Hopper, M.D., CMO; and William Kenley, Administrator/CEO spoke in support. Present in support were: Sarah Lodge Tally, Esq.; Carol Weidenhoffer, Director of Planning and Business Development, Methodist North Hospital.

Speaking in opposition were: Dan H. Elrod, representing Baptist Memorial Health Care Corporation; and Larry Johnson, M.D. Present in opposition were: Arthur Maples, Director Strategic Analysis, Baptist Memorial Health Care Corporation; and Gregory Duckett, Senior Vice President, Legal Counsel, Baptist Memorial Health Care Corporation. Mr. Trauger rebutted.

Mr. Elrod summated for the opposition.

Mr. Trauger summated for the applicant.

Dr. Caldwell moved for approval of the project based on: 1) Need – The ability to service the need is not there; 2) Economic Feasibility – The project is economically feasible and cost is not a factor; and 3) The project does contribute to the orderly development of adequate and effective health care as the quality of care will suffer if they continue to offer services and the hospital is not fully staffed. Without quality of care for the patients, orderly development will be negatively affected. Mr. Atchley seconded the motion. The motion CARRIED [4-3-0]. **APPROVED**

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AYE: Lammert, Caldwell, Atchley, Koella
NAY: Weaver, Gaither, Jones

Dr. Handorf recused.

Methodist Healthcare-Memphis Hospitals d/b/a LeBonheur Children's Medical Center - (Memphis, Shelby County) - Project No. CN0809-071

The addition of thirty (30) neonatal intensive care unit (NICU) beds at the replacement hospital (approved by CN0609-076) located at the corner of Poplar Avenue and North Dunlap. Construction of the new hospital is underway. This project will require additional construction to build out 24,000 square feet of approved shelled space to accommodate the new beds. Methodist LeBonheur currently has thirty (30) licensed NICU beds. The new hospital will open with a total of sixty (60) licensed NICU beds. Methodist LeBonheur will transfer ten (10) NICU beds from Methodist North Hospital and the other twenty (20) will be new NICU beds. Methodist LeBonheur (225 Licensed beds) and Methodist North Hospital (260 licensed beds) are two of five hospitals under the Methodist Healthcare-Memphis Hospitals' 1,563-bed license. The project will increase the total licensed beds to 1,583 by increasing Methodist LeBonheur's to 255 and decreasing Methodist North to 250. The bed complements of the three other hospitals under the Methodist Healthcare-Memphis Hospital's license are not affected by this project. The project does not contain any major medical equipment or initiate or discontinue any health service. Project Cost \$8,028,023.00.

Byron R. Trauger, Esq. representing the applicant, addressed the Agency. Speaking on behalf of the project Meri Armour, President/CEO, Methodist LeBonheur Children's Medical Center; and Ramasubbareddy Dhanireddy, M.D., Medical Director, Division of Neonatology, Methodist LeBonheur Children's Medical Center

Mr. Lammert moved for approval of the project based on: 1) Need – The project meets the need in the Memphis area; 2) Economic Feasibility – The project's economical feasibility is met with cash reserves and tax exempt bonds; and 3) The project does contribute to the orderly development of adequate and effective health care by allowing more children who need these services to be served. Mr. Jones seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Lammert, Caldwell, Atchley, Weaver, Gaither, Jones, Koella
NAY: None

StoneCrest Medical Center - (Smyrna, Rutherford County) - Project No. CN0809-072

The construction of a six (6) bed neonatal intensive care (NICU) nursery and the initiation of intermediate NICU services. StoneCrest Medical Center is a licensed seventy-five (75) bed general hospital. It is now implementing a Certificate of Need to expand to 101 hospital beds. This proposed project will add another six (6) licensed NICU beds, increasing the hospital's approved complement to 107 licensed beds, at which time Southern Hills Medical Center (another hospital owned and managed by HCA) will delicense its six (6) bed NICU nursery, reducing its hospital license from 120 to 114 hospital beds. The project does not contain major medical equipment or initiate or discontinue any other health service, or change any other licensed beds in the area. Project Cost \$2,774,900.00.

DEFERRED TO THE FEBRUARY MEETING

Southern Hills Medical Center - (Nashville, Davidson County) - Project No. CN0809-073

The discontinuance of obstetrics (OB) services. Southern Hills Medical Center is licensed for 120 hospital beds. The project does not contain major medical equipment or initiate or discontinue any other health service, or change any other facility's licensed bed complements. However, Stonecrest Medical Center another hospital owned by HCA is seeking CON approval to add a licensed six (6) bed NICU service in a companion application filed simultaneously with this application. If both are approved, Southern Hills Medical Center will delicense its six (6) bed NICU nursery service upon licensure of the StoneCrest Medical Center nursery, reducing Southern Hill Medical Center's license to 114 hospital beds. Project Cost \$50,000.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Speaking in support were: Thomas H. Ozburn, CEO; Eduardo Gumucio, President, Hablemos; and Dr. John Rocker spoke in support. Present in support were: Beth Bohmeyer, RN, Clinical Analyst, Tri-Star; Neil Heatherly, and John L. Wellborn, Consultant.

Cathy McGregor, RN, National Nurses Organizing Committee, opposed the project.

Mr. Taylor rebutted.

Ms. McGregor summated for the opposition.

Mr. Taylor summated for the applicant.

Mr. Atchley moved for approval of the project based on: 1) Need – The need is reversed, as there is not the ability to deliver due to the lack of doctors there to provide the service; 2) Economic Feasibility – The project is economically feasible and is not a factor; and 3) The project does contribute to the orderly development of adequate and effective health care as there is a danger factor when there is only one (1) Gyn/OB doctor at a facility providing the service. Dr. Caldwell seconded the motion. The motion CARRIED [7-1-0]. **APPROVED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Koella
NAY: Jones

GENERAL COUNSEL'S REPORT

Reid Brogden summarized the following request for modifications:

May Cravath Wharton Nursing Home - (Pleasant Hill, Cumberland County) - Project No. CN0610-083A

Request for a nine (9) month extension of the expiration date from March 1, 2009 to December 1, 2009. This project was approved at the January 24, 2007 Agency meeting for the construction of a replacement facility of a currently licensed sixty-two (62)* bed intermediate care nursing home to be located on the west side corner of West Lake Road and Main Street directly southwest of the current location. *These beds were not subject to the 125 Nursing Home Bed Pool for 2006-2007. The project cost was \$4,489,192.00.

Nancy Himell, Executive Director, representing the applicant, addressed the Agency.

Mr. Atchley moved for approval of the request of the extension for one (1) year to March 1, 2010. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Lammert, Caldwell, Handorf, Atchley, Weaver, Gaither, Jones, Koella
NAY: None

MINUTES

The minutes of the November 19, 2008, meeting were accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab